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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-972]

Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on certain stilbenic optical brightening agents ("stilbenic OBAs") from the People's Republic of China ("PRC"). In addition, the Department is amending its final determination to correct a ministerial error.

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SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended ("Act"), on March 26, 2012, the Department published the final determination of sales at less than fair value in the antidumping duty investigation of stilbenic OBAs from the PRC.<sup>1</sup> On May

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<sup>1</sup> See Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17436 (March 26, 2012) ("Final Determination").

2, 2012, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry.<sup>2</sup>

### Scope of the Order

The stilbenic OBAs covered by this order are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (i.e., all derivatives of 4,4'-bis [1,3,5- triazin-2-yl]<sup>3</sup> amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph.

The stilbenic OBAs covered by this order include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this order are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl]<sup>4</sup> amino-2,2'-stilbenedisulfonic acid, C<sub>40</sub>H<sub>40</sub>N<sub>12</sub>O<sub>8</sub>S<sub>2</sub> ("Fluorescent Brightener 71"). This order covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (i.e., mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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<sup>2</sup> See Certain Stilbenic Optical Brightening Agents from China and Taiwan, USITC Investigation Nos. 731-TA-1186 and 731-TA-1187 (Final), USITC Publication 4322 (May 2012).

<sup>3</sup> The brackets in this sentence are part of the chemical formula.

<sup>4</sup> Id.

### Amendment to the Final Determination

On March 26, 2012, the Department published its affirmative final determination in this proceeding.<sup>5</sup> On March 27, 2012, Zhejiang Hongda Chemicals Co., Ltd. (“Hongda”) and Zhejiang Transfar Whyyon Chemical Co., Ltd. (“Transfar”), respondents in the investigation, submitted timely ministerial error allegations and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors in the dumping margin calculations. On April 2, 2012, the petitioner, Clariant Corporation, submitted comments in rebuttal to Hongda’s ministerial error allegation. No other interested party submitted ministerial error allegations or rebuttal comments.

After analyzing all interested party comments and rebuttals, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we made a ministerial error in our calculations for the Final Determination, as alleged by Transfar: Specifically, we excluded the cost of rendering services from the denominator of the surrogate profit ratio but included the profit earned from rendering services in the total profit used as the numerator of the surrogate profit ratio. This error in arithmetic function resulted in the attribution of profits derived from rendering services to the manufacture and sale of the merchandise under consideration.<sup>6</sup> The amended weighted-average dumping margins are provided, below.

### Antidumping Duty Order

As noted above, on May 2, 2012, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found material injury with respect to stilbenic OBAs from the PRC. Because the ITC determined that imports

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<sup>5</sup> See Final Determination.

<sup>6</sup> For a detailed discussion of all alleged ministerial errors, as well as the Department’s analysis, see Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, concerning, “Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People’s Republic of China: Allegation of Ministerial Errors and Amended Final Determination,” dated April 20, 2012.

of stilbenic OBAs from the PRC are materially injuring a U.S. industry, all unliquidated entries of such merchandise from the PRC, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (“CBP”) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of stilbenic OBAs from the PRC. These antidumping duties will be assessed on unliquidated entries from the PRC entered, or withdrawn from warehouse, for consumption on or after November 3, 2011, the date on which the Department published its preliminary determination,<sup>7</sup> but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC’s final injury determination as further described below.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all entries of subject merchandise from the PRC. We will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC’s final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated weighted-average

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<sup>7</sup> See Certain Stilbenic Optical Brightening Agents from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68148 (November 3, 2011) (“Preliminary Determination”).

antidumping duty margins as discussed below.<sup>8</sup> The “PRC-wide” rate applies to all exporters of subject merchandise not specifically listed.

#### Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of exports of stilbenic OBAs from the PRC, we extended the four-month period to no more than six months.<sup>9</sup> In the underlying investigation, the Department published the Preliminary Determination on November 3, 2011.<sup>10</sup> Therefore, the six-month period beginning on the date of the publication of the Preliminary Determination ended on May 1, 2012. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC’s final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of stilbenic OBAs from the PRC entered, or withdrawn from warehouse, for consumption after May 1, 2012, the date provisional measures expired, and through the day preceding the date of publication of the ITC’s final injury determination in the Federal Register. Suspension of liquidation will resume on and after the date of publication of the ITC’s final injury determination in the Federal Register.

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<sup>8</sup> See section 736(a)(3) of the Act.

<sup>9</sup> See Preliminary Determination, 76 FR at 68149.

<sup>10</sup> See Preliminary Determination.

The weighted-average dumping margins are as follows:

<b>Exporter</b>	<b>Producer</b>	<b>Weighted Average Margin</b>
Zhejiang Hongda Chemicals Co., Ltd.	Zhejiang Hongda Chemicals Co., Ltd.	91.78
Zhejiang Transfar Whyyon Chemical Co., Ltd.	Zhejiang Transfar Whyyon Chemical Co., Ltd.	61.04
PRC-wide Entity	--	106.17

This notice constitutes the antidumping duty order with respect to stilbenic OBAs from the PRC pursuant to section 736(a) of the Act. This order and amended final determination are published in accordance with sections 736(a) and 735(e) of the Act and 19 CFR 351.211 and 351.224(e).

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Import Administration

\_\_May 3, 2012\_\_\_\_\_  
Date

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